

ATTORNEY DOCKET NO. : 056291-5004

Application No.: 09/756,291

Page 4

REMARKS

The Amendment and Response After Final filed on December 29, 2003, inserted the limitations of 48 into independent method claims 24 and 28. Inasmuch as the Examiner had stated that claim 48 would be allowable if placed in independent form, it is believed that the December 29, 2003 Amendment placed claims 24 and 28 in condition for allowance. Since all other claims are dependent on claims 24 and 28, it is understood that the December 29, 2003 Amendment and Response placed all claims in condition for allowance.

Independent claims 24 and 28 are directed toward a method of treating a hormonal dependent benign or malignant disease of the breast or reproductive tract. Existing dependent claim 25 provides that the benign or malignant disease of independent claim 24 is breast cancer. However, upon a further review of the claims pending the anticipated allowance, applicant has just noted (and brought to the attention of the undersigned) that there is no parallel claim dependent on independent method claim 28. New dependent claim 51 added herein is intended to remedy this inadvertent oversight.

Specifically, newly added dependent claim 51 provides that the benign or malignant disease of independent claim 28 is breast cancer, in the same manner that existing claim 25 provides that the benign or malignant disease of existing independent claim 24 is breast cancer. Newly added claim 51 is clearly within the scope of claim 28, and support is found in the specification, *inter alia*, at page 16, lines 4-5, and in original claim 22.

Therefore, new dependent claim 51 is clearly within the scope of claim 28 upon which it is dependent, finds support in the original specification and claims, and entry of this amendment requires only a cursory review by the Examiner. While it is recognized that entry of this amendment after Final is not a matter of right, it is believed that the above showings

ATTORNEY DOCKET NO. : 056291-5004

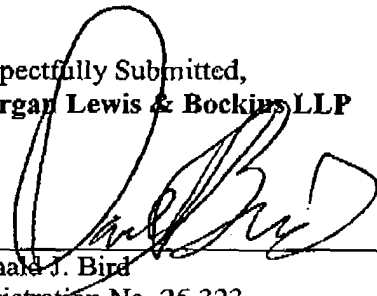
Application No.: 09/756,291

Page 5

meet all conditions of 37 CFR 1.116(c) and MPEP ¶ 714.13. Accordingly, entry of this amendment is believed to be in order and is respectfully requested.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Director is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully Submitted,
Morgan Lewis & Bockius LLP



Date: January 30, 2004
Morgan Lewis & Bockius LLP
Customer No. **09629**
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel. No.: 202-739-3000
DJB:

By:

Donald J. Bird
Registration No. 25,323
Tel. No.: (202) 739-5320
Fax No.: (202) 739-3001